REMARKS

The non-final Office Action mailed January 22, 2009 has been reviewed and these remarks are responsive thereto. Claims 1-10 and 31-41 were presented for examination. The current Office Action rejects claims 1-10 and 31-41. Applicants have amended claims 1, 5, 7, 8, 11, 15, 17, 18, 21-23, 25-31, 33, 34, 37-40, 42, 44, 45, 48-50, 53, 55, 56-59, 61 and 62. Applicants have canceled claims 32, 41, 43, 54 and 63 without conceding correctness of any rejections of the canceled claims.

I.   Note Regarding Figure 2

The current Office Action notes that the placement of the reference character 210 in paragraph 39 of the specification leads a reader to conclude 210 is the "Exception Monitoring Screen." Applicants respectfully submit that a reader would understand that each of the ovals in Figure 2 represents a different operation in system flow 200.

II.   Claim Rejections Under 35 U.S.C. § 103(a)

A.   Claims 1-4, 6, 7, 9 and 10

The current Office Action rejects claims 1-4, 6, 7, 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Iliff, U.S. Patent No. 5,594,638 (hereinafter "Iliff") in view of Ohayon, U.S. Patent No. 4,712,562 (hereinafter "Ohayon"). For the reasons stated below, Applicants respectfully traverse the rejections of claims 1-4, 6, 7, 9 and 10 under 35 U.S.C. § 103(a) over Iliff in view of Ohayon.

The current Office Action suggests that claims 1-4, 6, 7, 9 and 10 are obvious based on the rationale that prior art elements may be combined according to known methods to yield predictable results. As explained at Section 2143(A) of the Manual of Patent Examining Procedure (MPEP), to provide a prima facie case of obviousness under this rationale, Office personnel must articulate a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention

and the prior art being the lack of actual combination of the elements in a single prior art reference.

Claim 1 recites that the remote computer is programmed to receive the answers from the monitoring device. Claim 1 also recites that the remote computer is programmed to determine whether the person should have health care professional attention based at least in part upon the answers. In addition, claim 1 recites that the remote computer is programmed to determine, for each of the questions, whether the answer to the question satisfies a condition associated with the question. Furthermore, claim 1 recites that the remote computer is programmed to automatically generate a clinical note containing textual phrases matched to ones of the answers satisfying the respective conditions. Support for the amendments to claim 1 is found primarily at page 16 of Applicants' specification.

The current Office Action does not cite references that teach a remote computer programmed to receive the answers from the monitoring device. The current Office Action states that Iliff fails to teach transmitting the answers to a remote computer via the communication device. See page 3, second paragraph. Because Iliff fails to teach transmitting the answers to a remote computer via the communication device, it follows that Iliff fails to teach that the remote computer is programmed to receive the answers from the monitoring device.

Furthermore, Ohayon does not teach a remote computer programmed to receive the answers. Rather, Ohayon teaches the "receipt of the signals representing the patient's blood pressure." Ohayon, col. 4, lines 15-16. The receipt of signals representing the patient's blood pressure does not teach receiving answers to question posed to a person via the output device, as required by claim 1. This is because Ohayon "contemplates the use of an electronic sphygmanometer [sic] in which a microphone or transducer is provided for the detection of korotkoff sounds … The information obtained from the transducer is converted into a signal suitable for telephone transmission." Ohayon, col. 3, lines 2-9. A sphygmomanometer is a device used to measure blood pressure computing an inflatable cuff to restrict blood flow and a manometer to measure the pressure. There is nothing in Ohayon to suggest that the sphygmomanometer poses questions to a person. Accordingly, there is nothing in Ohayon to suggest that a remote computer programmed to receive the answers to such questions. Because

neither Iliff nor Ohayon teach or suggest that a remote computer programmed to receive the answers from the monitoring device, Iliff in view of Ohayon does not teach a requirement of claim 1.

Furthermore, Iliff in view of Ohayon does not teach a remote computer programmed to determine, for each of the questions, whether the answer to the question satisfies a condition associated with the question. As discussed above, neither Iliff nor Ohayon teach or suggest a remote computer programmed to receive the answers from the monitoring device. Because neither Iliff nor Ohayon teach or suggest a remote computer programmed to receive the answers from the monitoring device, it follows that neither Iliff nor Ohayon teach a remote computer programmed to do anything with the answers received from the monitoring device. Moreover, there is nothing in Iliff or Ohayon that teaches or suggests conditions associated with questions. This being the case, Iliff in view of Ohayon does not teach this requirement of claim 1.

Iliff in view of Ohayon does not teach or suggest a remote computer programmed to automatically generate a clinical note containing textual phrases matched to ones of the answers that satisfy the respective conditions. As mentioned above, Iliff in view of Ohayon does not teach or suggest a remote computer programmed to receive the answers. Because Iliff in view of Ohayon does not teach or suggest a remote computer programmed to receive that answers, Iliff in view of Ohayon does not teach or suggest a remote computer programmed to automatically generate a clinical note containing textual phrases matched to ones of the answers that satisfy the conditions.

The current Office Action asserts that Ohayon, col. 4, lines 14-34, teaches a remote computer programmed to generate a clinical note based upon the answers transmitted to the remote computer. In its most relevant part, Ohayon, col. 4, lines 14-34, recite "under what could be described as a typical patient monitoring and feedback program, the patient's blood pressure information and analysis would be generated in a hard copy format for distribution to the patient and his physician. Additionally, notices could be generated, if necessary, to remind the patient of the required schedule for vital signs readings." There is nothing in this passage of Ohayon to indicate the content of the "hard copy format." Accordingly, there is nothing in this passage of Ohayon to suggest that the "hard copy format" contains textual phrases. For instance, the "hard

copy format" could be a chart or a set of numbers. For this reason, Ohayon does not teach a remote computer programmed to automatically generate a clinical note containing textual phrases.

Furthermore, Iliff discusses a "summary" at col. 28, lines 23-29. Iliff, col. 28, lines 23-29, state, "the MDATA system 100 then gives the patient the option of receiving a summary of the consultation session and specific recommendations provided to the system by either facsimile or first class mail." There is nothing in Iliff that explicitly teaches that the "summary" contains textual phrases. Moreover, there is nothing in Iliff to suggest that the "summary" contains textual phrases matched to ones of the answers that satisfy the conditions. For example, a summary of a consultation session could simply contain a summary of advice. In this example, the advice would not necessarily contain textual phrases matched to ones of the answers that satisfy the conditions. Accordingly, the discussion of summaries in Iliff does teach or suggest a remote computer programmed to automatically generate a clinical note containing textual phrases matched to ones of the answers that satisfy the conditions.

Because Iliff in view of Ohayon does not teach or suggest all elements of claim 1, the current Office Action does not provide a prima facie case of obviousness under 35 U.S.C. § 103(a) against claim 1 and its dependent claims 2-4, 6, 7, 9 and 10. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a) against claims 1-4, 6, 7, 9 and 10.

B.   Claims 5 and 8

The current Office Action rejects claims 5 and 8 under 35 U.S.C. § 103(a) over Iliff in view of Ohayon in further view of Brown, U.S. Pat. Publication No. 2003/0069753 (hereinafter, "Brown"). Applicants respectfully traverse the rejection of claims 5 and 8 for at least the following reasons.

Claims 5 and 8 are dependent claims of claim 1. As discussed above, Iliff in view of Ohayon does not teach or suggest all elements of claim 1. Furthermore, the current Office Action does not suggest that Brown teaches or suggests the elements of claim 1 that are not taught or suggested by Iliff in view of Ohayon. Because the current Office Action does not cite

references that teach or suggest all elements of claim 1, the current Office Action does not provide a prima facie case of obviousness under 35 U.S.C. § 103(a) against the dependent claims of claim 1. For at least this reason, Applicants respectfully request the withdrawal of the rejections of claims 5 and 8 under 35 U.S.C. § 103(a).

C.   Claims 31 and 35-39

The current Office Action rejects claims 31 and 35-39 under 35 U.S.C. § 103(a) as being unpatentable over Iliff in view of Ohayon. For the reasons stated below, Applicants respectfully traverse the rejections of claims 31 and 35-39 under 35 U.S.C. § 103(a) over Iliff in view of Ohayon.

Claim 31 recites a remote computer programmed to receive the answers from the monitoring device. As discussed above, Iliff in view of Ohayon does not teach or suggest a remote computer programmed to receive the answers from the monitoring device. Accordingly, Iliff in view of Ohayon does not teach or suggest an element recited by claim 31.

Furthermore, claim 31 recites that the remote computer is programmed to automatically create, in response to determining that the person should have health care professional attention, an entry in an intervention data field for the person, the entry describing a treatment to counteract a symptom experienced by the person. Support for this element is found at page 19 of Applicants' specification.

Iliff in view of Ohayon does not teach or suggest a remote computer programmed to automatically create, in response to determining that the person should have health care professional attention, an entry in an intervention data field for the person, the entry describing a treatment to counteract a symptom experienced by the person. The current Office Action asserts with regard to canceled claim 41 that Iliff, col. 35, lines 33-41, teaches that intervention data is automatically entered into the remote computer in response to the remote computer determining that the person should have health care professional attention. Iliff, col. 35, lines 33-41, state:

> "the system 100 determines if a serious medical condition exists. If so, the system
> 100 moves to a state 486, plays a message that advises the patient to seek
> immediate medical attention and ends the evaluation process 254 at a terminal
> state 488. If it is determined at state 474 that a serious medical condition does not

exist, the system 100 proceeds to a complaint menu at state 475 and recites a list
of algorithms dealing with the problem that corresponds to the anatomical system
selected."

While this passage of Iliff does discuss doing two different things when the patient needs
immediate medical attention, there is nothing about this passage of Iliff to suggest that the
remote computer is programmed to create, in response to determining that the person should
have health care professional attention, an entry describing a treatment to counteract a symptom
experienced by the person: advice to seek immediate medical attention does not describe a
treatment to counteract a symptom. Therefore, this passage of Iliff does not teach or suggest a
remote computer programmed to automatically create, in response to determining that the person
should have health care professional attention, an entry in an intervention date field for the
person, the entry describing a treatment to counteract a symptom experienced by the person.

For at least the reasons provided above, Iliff in view of Ohayon does not teach or suggest
each element of claim 31. Accordingly, Iliff in view of Ohayon does not provide a prima facie
case of obviousness under 35 U.S.C. § 103(a) against claim 31 and its dependent claims 35-39.
Applicants therefore respectfully request the withdrawal of the rejection under 35 U.S.C. §
103(a) of claims 31 and 35-39.

D.   Claims 33, 34 and 40

The current Office Action rejects claims 33, 34 and 40 under 35 U.S.C. § 103(a) over Iliff
in view of Ohayon in further view of Brown. Applicants respectfully traverse the rejection of
claims 33, 34 and 40 for at least the following reasons.

Claims 33, 34, and 40 are dependent claims of claim 31. As discussed above, Iliff in
view of Ohayon does not teach or suggest all elements of claim 31. Furthermore, the current
Office Action does not suggest that Brown teaches or suggests the elements of claim 31 that are
not taught or suggested by Iliff in view of Ohayon. Because the current Office Action does not
cite references that teach or suggest all elements of claim 31, the current Office Action does not
provide a prima facie case of obviousness under 35 U.S.C. § 103(a) against the dependent claims
of claim 31. For at least this reason, Applicants respectfully request the withdrawal of the
rejections of claims 33, 34 and 40 under 35 U.S.C. § 103(a).

CONCLUSION

In view of the foregoing remarks, Applicants respectfully submit that the claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Additionally, the Commissioner is hereby authorized to charge any additional fees as set forth in §§ 38 CFR 1.16 to 1.18 which may be required for entry of these papers or to credit any overpayment to Deposit Account No. 13-2725.

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